IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

THURSDAY, THE 11TH OCTOBER 2007 / 19TH ASWINA 1929

MFA.No. 796 of 2002(A)

OPMV.274/1997 of MOTOR ACCIDENT CLAIMS TRIBUNAL, VADAKARA
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APPELLANT/3RD RESPONDENT:

NATIONAL INSURANCE COMPANY LTD.,
BRANCH OFFICE, MAVOOR ROAD, KOZHIKODE.

BY ADV. SRI.RAJAN P.KALIYATH

RESPONDENTS: PETITIONER & RESPONDENTS 1 AND 2:
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1. SOUMINI T.K., W/O. T.K.BALAN,
THEVARKANDI HOUSE, POST THUVAKODE,
CHEMMANCHERRY, KOZHIKODE DISTRICT.

2. RAJESH N., S/O. MADHUSOODANAN,
NECHOOLI ILLATH HOUSE, P.O.THUVAKODE,
VIA.CHEMMENCHERRY, KOZHIKODE DISTRICT.

3. MANEESH T.K., S/O. T.K.BALAN,
THEVARKANDI HOUSE, POST THUVAKODE,
VIA. CHEMMENCHERRY, KOZHIKODE.

BY ADV. SRI.C.P.MOHAMMED NIAS

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 11/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P No.4688/2002 IN M.F.A.No.796/2002

DISMISSED

11/10/2007 **Sd/-J.B.KOSHY,JUDGE**

Sd/- K.HEMA,JUDGE

TRUE COPY

P.A.TO JUDGE

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.796 OF 2002 (C)

Dated this the 11th day of October, 2007

J U D G M E N T

KOSHY,J.

Insurance company filed this appeal contending that quantum of compensation awarded is high. There is no averment that Insurance company got permission to contest the case on merit under Section 173 of the Motor Vehicles Act. Therefore appeal is not maintainable. Even otherwise the only contention taken by the appellant is that the mother was 48 years old at the time of accident. Since deceased was an unmarried person age of the mother has to be taken into account. But here the age of the deceased was taken into account and 18 is taken as the multiplier by taking guideline from the 2nd Schedule. If age of the mother is taken into account, 13 is the multiplier. If that is so, compensation payable alone is more than Rs.3 lakhs, that is, Rs.24,000 x 13 = Rs.3,12,000/-. Even though tribunal calculated Rs.4,32,000/-, only

Rs.2,75,000/- was awarded. The amount awarded is less than the amount payable even accepting the contentions of the Insurance company. Therefore there is no merit in this appeal and hence this appeal is dismissed.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

prp

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.796 OF 2002 (C)

J U D G M E N T

11th October, 2007